

**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

Writ Appeal No.827 OF 2007

Between:

R. Purnasri

.... Appellant

And

The Director of School Education,
Saifabad, Hyderabad – 500 004 and two others

... Respondents

:: JUDGMENT ::

Counsel for the appellant : Shri A. Rama Krishna

Counsel for respondent Nos.1 and 2: Government Pleader for
School Education

Counsel for respondent No.3 : Shri V.S.R. Anjaneyalu

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October 5, 2007

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 8-8-2007 passed by the learned Single Judge in Writ Petition No.11190 of 2005, whereby he annulled proceedings in R.C.No.371/B1-3/2004 dated 21-3-2005 issued by the Director of School Education, Saifabad, Hyderabad (respondent No.1 herein) approving the Correspondentship of R.S.R. Aided Elementary School, Gajipalem, Chirala Mandal, Prakasam District (for short "the School") in favour of the appellant.

The School in question was established in the year 1950 by Sri Radha Krishan Murty (father of the appellant and respondent No.3). The mother of the appellant and respondent No.3 functioned as Manager and Correspondent of the School till her death. In the year 2000, the appellant's husband Sri R.Lakshmi Ram Prasad (since deceased) filed a suit for declaration in the Court of Principal Junior Civil Judge, Chirala and prayed that he is entitled to manage the affairs of the School. The same was registered as O.S.No.134 of 2000. Respondent No.3 was impleaded as one of the defendants. The suit ended in a compromise, which was recorded on 5-6-2000, and was made part of award dated 17-6-2000 passed by Lok Adalat, Chirala. After about two years, respondent No.3 filed Writ Petition No.25628 of 2002 for issue of a mandamus to the official respondents to approve his candidature as Secretary and Correspondent of the School. The same was disposed of on 27-12-2002 by directing respondent No.2 to pass appropriate order on the application of respondent No.3 within a period of six weeks. After some time, he filed Contempt Case No.971 of 2003 with a complaint that order dated 27-12-2002 has not been implemented. On receipt of the notice of the Contempt Case, respondent No.2 forwarded the application of respondent No.3 to respondent No.1, who passed order dated 9-2-

2004 and rejected his candidature as Secretary and Correspondent of the School. Respondent No.3 challenged that order in Writ Petition No.5841 of 2004. During the pendency of that petition, respondent NO.1 passed order dated 21-3-2005, whereby he approved the Correspondentship of the School in favour of the appellant. The same became subject matter of challenge in Writ Petition No.11190 of 2005 filed by respondent No.3.

The learned Single Judge allowed both the Writ Petitions by common order dated 8-8-2007. He held that in view of the award dated 17-6-2000 passed by Lok Adalat, Chirala, respondent No.1 could not have approved the Correspondentship of non-petitioner No.3 (the appellant herein). The learned Single Judge also quashed order dated 9-2-2004 passed by respondent No.1 declining the prayer of respondent No.3 for approval of his Correspondentship of the School.

We have heard learned counsel for the parties and scrutinized the record.

In our opinion, the order under challenge is liable to be set aside on the short ground that while adjudicating the claim of respondent No.3 to be treated as Secretary and Correspondent of the School, the learned Single Judge overlooked the important factor, viz., that, at the relevant time, respondent No.3 was working as Assistant Engineer in the service of the Andhra Pradesh State Road Transport Corporation (for short "APSRTC") and he could not have effectively discharge the functions of Secretary and Correspondent of the School. In paragraph 7 of the counter-affidavit filed by her in Writ Petition No.11190 of 2005, the appellant categorically averred that the writ petitioner, who is elder brother of her husband, was working as Assistant Engineer in APSRTC and he will not be in a position to manage the School. She also pleaded that as per award dated 17-6-

2000 her husband was entitled to manage the affairs of the School. In paragraph 2 of the grounds of appeal, the appellant has stated that respondent No.3 is presently working as Technical Manager in the Engineering Department of APSRTC at Pandit Nehru Depot, Vijayawada and residing at Gannagaram, Krishna District, which is about 120 Kms from Chirala and, as such, he is not eligible to be appointed as Manager or Correspondent as per Rule 55 of the Andhra Pradesh Integrated Educational Rules, which postulates that the Manager of the School should be literate and a resident of the place where the school is located or at least should be a resident within that Block or Mandal where the school is situated.

Sri V.S.R.Anjaneyulu, learned counsel for respondent No.3, fairly admitted that, while quashing order dated 21-3-2005, the learned Single Judge did not consider the factum of employment of his client. He also agreed that the case can be remanded for fresh adjudication of the Writ Petition.

In view of the above, the appeal is allowed. The order of the learned Single Judge is set aside. Writ Petition No.11190 of 2005 shall now be listed before the learned Single Judge for fresh adjudication.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

October 5, 2007
Ks/MNR